



Mr. Gene Mayer

August 17, 1983

Lawrence A. Augusta

Penalties for Private Railroad Car Annual Reports

This is in response to your memo of August 18, 1983, asking whether it is appropriate to add penalties under both Sections 11273 and 11316 to the same private car report. In my opinion it is appropriate.

The penalty imposed by Section 11273 is mandatory. If the report does not arrive on time, a 10% penalty must be attached. There is no discretion.

The penalty under 11316 is likewise mandatory; however, it is discretionary with the Board whether or not to consider the filing unsatisfactory under Section 11314. If you determine that an estimated assessment should be made under 11314, then the penalty should be applied.

I see no prohibition against applying both penalties to the same report. They are separate acts of malfeasance for which separate penalties should be applied.

LAA:jlh

cc: Mr. Gordon P. Adelman  
Mr. Robert H. Gustafson  
Mr. J. J. Delaney  
Mr. Bill Jackson  
Mr. Robert Forsberg  
Mr. Louis Chapman